IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13234 of 2004

Between:

M.Narayana Rao, s/o Veeraiah,
Worked as Foremen Grade-I (Retd.) Vijayawada Thermal Power

Station, Generation Corporation of A.P.Ltd., Ibrahimpatnam, Krishna

District.

..... PETITIONER

AND

1. The Generation Corporation of A.P.Ltd., rep., by its Executive

Director, Vijayawada Thermal Power Station,

Ibrahimpatnam, Krishna District.

2 The Superintending Engineer (I) SC-1, Operation and

Maintenance Department, Vijayawada Thermal Power

Station, Ibrahimpatnam, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction especially one in the nature of writ of mandamus

i. declaring the Memo No.Procg.No.ED/VTPS/SAO-II/AO-I/AAO-II/PENSIONS/CI/D.No.4163/2004 dt.9-7-2004, issued by the 1st respondent, as illegal, arbitrary and set-aside the same;

ii. consequently direct the respondents to release all pensionary benefits including the pension, gratuity, commutation of leave etc., along

with admissible interest to the petitioner herein, and

iii. pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.VASUDEVA REDDY

Counsel for the Respondents: SMT.K.SESHARAJYAM.SC for APSEB

The Court at the stage of admission, made the following :

ORAL ORDER

The petitioner worked as a Foremen in the respondent-Corporation and retired from service with effect from 30-06-2004 on attaining the age of superannuation. He claimed all the retirement benefits from the respondents, but, there was a communication from the respondents dated 09-07-2004 that the pensionary benefits can not be sanctioned until finalization of judicial proceedings initiated against the petitioner in Cr.No.34 of 2004 under Section 420 of Indian Penal Code,1860 which was subsequently numbered as Calendar Case No.721 of 2003 on the file of II Metropolitan Magistrate Court, Vijayawada. On verification of the complaint, it is noticed that the said transaction covered by the above crime is not connected to the discharge of his official duties while in service. Therefore, the respondents are not supposed to stop the pensionary benefits of the petitioner on the pretext of the pendency of the criminal case against him for the offence under section 420 of Indian Penal Code,1860.

Since the said crime was registered at the instance of a third party, in the event of conviction of the petitioner, the complainant would take necessary steps for recovery of the amount, the respondents have nothing to do with that transaction.

The respondents are, therefore, directed to release all the pensionary benefits to the petitioner, which are due to him according to rules, within two (2) months from the date of receipt of a copy of this Order.

The writ petition is accordingly disposed of. No order as to costs.

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16TH AUGUST 2004

NOTE

Issue CC

In three(3) days

(B/O)

*TSNR

TO

1. The Generation Corporation of A.P.Ltd., rep., by its Executive

Director, Vijayawada Thermal Power Station,

Ibrahimpatnam, Krishna District.

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